

## Performance Evaluation Fact Sheet

# COURT HELP, JUDICIAL BRANCH

### ISSUE STATEMENT

The Joint Appropriations Subcommittee on Judicial Branch, Law Enforcement, and Justice voted to request monitoring of this item. The legislature appropriated funding for the Court Help Program in the 2009, 2011, and 2013 biennia with one-time funding. With this funding, has the program achieved its intended purpose, as stated below by assumption from a bill that failed to be enacted by the legislature?

### HISTORY AND PURPOSE OF PROGRAM OR ITEM

SJ 6 of the 2005 Legislature requested a study of access by low-income Montanans to the Montana civil legal system. The Law and Justice Interim Committee requested HB 60 during the 2007 Legislature, which would have established the “Montana Access to Civil Justice Act” to be administered by the Supreme Court; identified the duties of the program, then identified as the self-help law program; and appropriated \$505,000 general fund for each year of the 2009 biennium. HB 60 also stated the purpose for the program was to “make Montana’s court system more accessible by:

- Providing Montanans with user-friendly information about Montanan’s civil law, courts, and legal system
- Providing state-level, self-help legal resources, tools, information, and training materials on a statewide basis in a cost effective manner emphasizing technology and volunteer services
- Facilitating the efficient use of judicial resources in civil court proceedings that involve self-represented litigants”

HB 60 failed to pass the legislature having died in the House Appropriations Committee. Instead, the legislature appropriated general fund to the Supreme Court Program of the Judicial Branch in the amount of \$252,500 in each year of the 2009 biennium, and specified in language the various uses of the funds.

The 2009 Legislature funded the program in HB 645 for the 2011 biennium, a bill that implemented the American Recovery and Reinvestment Act of 2009, with \$250,000 general fund year. For the 2013 biennium, the legislature funded the program with nearly \$296,000 of restricted, biennial, and one-time-only general fund per year but without the restricted language that was included for the 2009 biennium.

The current program includes the following:

- Two full-time staffed centers have now been established in Flathead and Yellowstone counties
- Four part-time centers have been established in Missoula, Great Falls, Bozeman, and the State Law Library in Helena. The centers provide services four or more days a week and are staffed by a combination of paid employees, AmeriCorps service members, and volunteers
- Leveraged funds provide six AmeriCorps members who travel and provide services to 17 rural counties
- A program coordinator and a legal resources developer

## MEASURES FOR DETERMINING EFFECTIVENESS

### Measure One:

To measure if the program is facilitating the efficient use of judicial resources, surveys were used to compare case filings in civil court proceedings involving self-represented litigants. Specific measures are:

1. Beginning December 1, 2011, paperwork filed by self-represented litigants involved in domestic relations cases in Missoula, Gallatin, Cascade, Lewis and Clark, and Yellowstone Counties who received court help center services were stamped with a "Court Help" stamp and paperwork for self-represented litigants not receiving center services were not stamped.
2. In March 2012, clerks of the district court in the five participating counties completed a survey comparing the quality of paperwork submitted by litigants who have visited a center (as verified by the stamp) and those who have not visited a center. The survey asked for general assumptions about whether center assistance improved the quality of the paperwork and the ability of the court to process the cases.
3. In March 2012, the judges in each of the five participating counties were asked to complete a survey comparing the quality of paperwork submitted by self-represented litigants who have visited a center (as verified by the stamp) and those who have not visited a center. The survey asked for general assumptions about whether center assistance improved the quality of the paperwork and the efficiency of the court to process the cases.

Expected outcomes:

- Litigants receiving center services will have better prepared and more complete paperwork than those not receiving service
- Litigants receiving center services will have a better understanding of the court process
- Clerks will be able to process case filings more efficiently for litigants who received center services than for litigants who did not seek services from a center
- Judges will notice an improved ability of self-represented litigants to navigate the legal system
- Litigants who received center services will provide more orderly and complete case filings and court efficiency will increase as a result

### Measure Two:

To measure if the legal clinics facilitated by volunteer attorneys improve the ability of a self-represented litigant to represent themselves in court, cases for a specific group of litigants were tracked. This measure is limited to the 13th district family law and motion clinics staffed by volunteer attorneys. Specific measures that were monitored beginning in January 2012 were:

- In Billings, the judges held a monthly law and motion day in which all family law self-represented litigants were offered the assistance of a volunteer attorney to review the sufficiency of their filing documents prior to appearing before the judge
- Litigants were asked to complete a survey at the end of their filing to determine if the clinic improved their understanding of the process and their confidence in the court's decision
- Clerks were asked to complete a survey at the end of the law and motion day to determine if the clinic improved the completeness of documents submitted by the litigants, how well prepared litigants were, and if time and efficiency of the court was enhanced
- Judges were asked to complete a survey at the conclusion of the law and motion hearings to ascertain if the documents, as well as the individual litigants, were better prepared, the impact on time and efficiency of the court, and the anticipated reduction of return visits of the litigants
- The volunteer attorneys were asked to complete a survey to determine if they believe the clinics improved how well prepared the litigants were, as well as the accuracy and quality of the final documents submitted to the court

Expected outcomes:

- Litigants attending the clinic will present complete and accurate required documents, and will have an improved understanding of the court process and more confidence in the court's decision

- The clerks will observe that self-represented litigants are more prepared and their documents are complete and accurate, which will improve the efficiency and effectiveness of the court's time
- The judges will observe that self-represented litigants are more prepared and their documents will be complete and accurate, which will improve the efficiency and effectiveness of the court's time. These litigants will demonstrate a better understanding of the court process and therefore confidence in the court's decision
- Finally, the volunteer attorneys providing assistance prior to the hearing will enhance how well prepared litigants are for their hearing, and the documents they submit will be more accurate and complete. This will improve the issuance of a decree without the need for the litigant to amend their documents or the need to return to court

## **CURRENT STATUS**

### **Performance Measure One Outcomes**

From July 1, 2011 to May 18, 2012, about 4,600 people sought assistance from Court Help Centers around Montana. (An individual could seek services more than once from a center.)

In addition to the six counties set out in measure one in May 2012, all court clerks and judges (or judicial staff) in judicial districts with self-help services were asked to complete a survey comparing the quality of paperwork submitted by self-represented litigants who have visited a center and those who have not visited a center. This survey asked for general observations about whether Court Help assistance improves the quality of the paperwork and the ability of the court to process the cases, as well as the efficiency of the court to process these cases.

### ***Clerks of District Court Responses***

A total of 44 clerks of court responded to the survey. A large majority of clerks (71%) were able to identify a difference in the level of preparedness when a self-represented litigant received Court Help services.

Differences identified include:

- 93% note the litigant has completely filled out legal forms
- 89% note the litigant's filing contains all required documents
- 69% note the litigant has filed paperwork in the correct order
- 58% note the litigant has complied with local rules and filing requirements
- 42% note the litigant has an enhanced understanding of the legal process
- 39% note the litigant is prepared for court hearings

Clerks also noted:

- Where the litigant received Court Help services, clerks spend less time discussing filing requirements with the litigant (53% "agree" or "strongly agree" while 36% somewhat agree)
- Where the self-represented individual received Court Help services, litigants make fewer unsuccessful attempts at filing documents (52% "agree" or "strongly agree" while 24% "somewhat agree")

Clerks provided other general comments including (comments are paraphrased):

- Litigants who have received help have a better general understanding and attitude about the process and the tasks they are undertaking by proceeding as a self-represented litigant
- They are always organized and we don't have to explain a lot of procedures
- Litigants are less frustrated, more organized, have an idea of what to expect from us and the court. They don't yell at us nearly as often

Clerks also identified common pitfalls for individuals representing themselves:

- 100% indicate that understanding the legal process is a challenge
- 79% indicate that understanding the law is a challenge
- 40% indicate access to legal forms is a challenge
- 37% indicate that literacy is a challenge

## ***District Court Judges' Responses***

A total of 19 judges (or judicial staff) responded to the survey. A large majority (84%) were able to identify whether a self-represented litigant received Court Help services.

A very large majority (94.4%) of the judges and judicial staff were able to identify a difference in the level of preparedness when a self-represented litigant received Court Help services.

Differences identified include:

- 93% note the litigant has completely filled out legal forms
- 88% note the litigant's filing contains all required documents
- 75% note the litigant has filed paperwork in the correct order
- 68% note the litigant is prepared for court hearings
- 62% note the litigant has complied with local rules and filing requirements
- 50% note the litigant has an enhanced understanding of the legal process

Judges also noted:

- Where the litigant received Court Help services, clerks spend less time discussing filing requirements with the litigant (73% "agree" or "strongly agree")
- Where the self-represented individual received Court Help services, litigants make fewer unsuccessful attempts at filing documents (79% "agree" or "strongly agree")

Judges also identified common pitfalls for individuals representing themselves:

- 94% indicate that understanding the legal process is a challenge
- 78% indicate that understanding the law is a challenge
- 50% indicate access to legal forms is a challenge
- 50% indicate that literacy is a challenge

Judges provided other general comments (both positive and negative) including (comments are paraphrased):

- Litigants receiving Court Help services have a better understanding of the process and what to expect in court
- They (litigants) are always organized and we don't have to explain a lot of procedures
- Litigants appear more confident
- Less time wasted for the courts and clerks
- Litigants are prepared for their hearing and are confident in their testimony and demeanor
- Litigants fail to follow the instructions and don't know how to present necessary evidence to allow the judge to make a decision
- There is only a difference in the initial forms; they still have no idea of rules of civil procedure or evidence
- Nothing is foolproof and some people don't get it even with help

## **Performance Measure Two Outcomes**

In the 13th Judicial District (Yellowstone County) law and motion clinics were conducted once each month from January through May 2012 and served 159 self-represented litigants in uncontested family law cases. A total of 22 volunteer attorney slots were provided during these clinics. A total of five judges and eight court clerks were involved in the clinics and subsequently surveyed as part of the pilot project. The 13th Judicial District has the largest number of family law case filings with 1,891 cases filed in 2011.

Self-represented litigants who received assistance from volunteer attorneys at the monthly law and motion clinics reported improved understanding and confidence in the court's decision:

- 90% of the individual self-represented litigants responded that the volunteer attorney assistance received at these clinics "greatly improved" their ability to finalize their family law matter

- 94% stated this assistance “greatly improved” their ability to review, understand or complete their final documents
- Assistance received after the hearing (filing documents, obtaining necessary copies and reviewing information about additional steps necessary) was found to “greatly improve” (59%) or somewhat improve (24%) the understanding of the self-represented litigants assisted in the clinics

Court clerks reported self-represented individuals were better prepared with more accurate documents:

- 100% of clerks indicated the clinics “somewhat improved” to “greatly improved” the efficiency in preparing for hearings
- 88% found the completeness of documents was also “somewhat” to “greatly improved”
- 88% of clerks reported measurable to substantial time savings and improved efficiency due to the clinics

Judges also observed the self-represented individuals were better prepared with more complete documents, all of which contributed to court efficiency and a better understanding of the court process.

- 100% of responding judges indicated the sufficiency, completeness and accuracy of self-represented litigants’ final documents as compared to previous final documents of non-assisted self-represented litigants was “greatly improved”
- 100% of responding judges indicated that self-represented family law litigants were “much more prepared” for hearings after attending the clinic
- 100% of responding judges indicated the time and efficiency value of the law and motion clinic to judges and staff was “somewhat improved” to “greatly improved”, resulting in measureable time savings
- All but one judge believed the volunteer attorney’s assistance in preventing errors will reduce the number of self-represented litigants seeking revision of a court’s order. One judge believed litigants would seek future revisions based on personal circumstances rather than incorrect forms

Volunteer attorneys concluded their assistance prior to the hearing did enhance how well prepared litigants were for a hearing and the documents were more accurate and complete.

- 75% of these attorneys indicate their involvement “greatly improved” the quality, accuracy and completeness of final documents for all litigants they assisted, while 25% considered their involvement “somewhat improved” these elements
- 85% of the volunteer attorneys state the self-represented litigants they assisted “greatly improved” how prepared they were for hearing, and the remaining 15% considered these individuals “somewhat improved” in their preparedness

The law and motion clinic pilot program is currently under review by the judges in the 13th Judicial District as to if and how they would like to continue this program for self-represented litigants. If continued, the program will be offered to other judicial districts with support from legal services developer charged with supporting pro bono attorney involvement.

## **POTENTIAL OPTIONS OR DECISION POINTS**

This report updates the committee on progress of the Court Help pilot project and no committee actions are expected. Outcome data may be helpful during the 2013 Legislature when evaluating funding requests for the Court Help Program.